

Order

Entered: June 6, 2003

**Michigan Supreme Court
Lansing, Michigan**

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

1999-50
2000-27

Amendment of Rules 7.205,
7.210, 7.215, 7.302, and 7.316
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.205, 7.210, 7.215, 7.302, and 7.316 of the Michigan Court Rules are adopted, to be effective September 1, 2003.

[The present language is amended as indicated below.]

Rule 7.205 Application for Leave to Appeal

(A) - (E) [Unchanged.]

(F) Late Appeal.

(1) - (4) [Unchanged.]

(5) The time limit for late appeals from orders terminating parental rights is 63 days, as provided by MCR 3.993(C)(2).

(G) [Unchanged.]

Rule 7.210 Record on Appeal

(A) - (G) [Unchanged.]

(H) Return of Record. After the Court of Appeals disposes of an appeal, the Court of Appeals shall promptly send the original record, together with a certified copy of the opinion, judgment, or order entered by the Court of Appeals

- (1) to the Clerk of the Supreme Court if an timely application for leave to appeal is filed in the Supreme Court, or
 - (2) to the clerk of the court or tribunal from which it was received when
 - (a) the period for an timely application for leave to appeal to the Supreme Court has expired without the filing of an application, and
 - (b) [Unchanged.]
- (I) [Unchanged.]

Rule 7.215 Opinions, Orders, Judgments, and Final Process from Court of Appeals

(A) - (E) [Unchanged.]

(F) Execution and Enforcement.

- (1) Routine Issuance. Unless otherwise ordered by the Court of Appeals or the Supreme Court or as otherwise provided by these rules,
 - (a) the Court of Appeals judgment is effective after the expiration of the time for filing an timely application for leave to appeal to the Supreme Court, or, if such an application is filed, after the disposition of the case by the Supreme Court;
 - (b) [Unchanged.]
- (2) [Unchanged.]

(G) - (J) [Unchanged.]

Rule 7.302 Application for Leave to Appeal

(A) - (B) [Unchanged.]

(C) When to File.

- (1) Before Court of Appeals Decision. In an appeal before the Court of Appeals decision, the application must be filed within 42 28 days

(a) - (c) [Unchanged.]

- (2) Other Appeals. Except as provided in subrule (C)(4), in other appeals the application must be filed within 42 21 days in civil cases, or within 56 days in criminal cases,

- (a) after the Court of Appeals clerk mails notice of an order entered by the Court of Appeals;
- (b) after the filing of the opinion appealed from; or
- (c) after the Court of Appeals clerk mails notice of an order denying a timely filed motion for rehearing.

However, the time limit is 28 days where the appeal is from an order terminating parental rights.

- (3) Later Application. Late applications will not be accepted. A delayed application may be filed, if it is accompanied by an affidavit explaining the delay. However, a delayed application may not be filed more than 56 days after the Court of Appeals decision.

- (4) Decisions Remanding for Further Proceedings. If the decision of the Court of Appeals remands the case to a lower court for further proceedings, an application for leave may be filed within 42 21 days in civil cases, or 56 days in criminal cases, after

(a) - (b) [Unchanged.]

- (5) Effect of Appeal on Decision Remanding Case. If a party appeals a decision which remands for further proceedings as provided in subrule (C)(4)(a), the following provisions apply:

(a) If the Court of Appeals decision is a judgment under MCR 7.215(E)(1), ~~a timely appeal~~ an application for leave to appeal stays proceedings on remand unless the Court of Appeals or the Supreme Court orders otherwise.

(b) [Unchanged.]

(6) [Unchanged.]

(D) Opposing Brief; Cross-Appeal.

(1) [Unchanged.]

(2) An application for leave to appeal as cross-appellant may be filed with the clerk ~~by the date the appellant's application for leave is noticed for hearing or~~ within ~~21~~ 28 days after the appellant's application is filed; ~~whichever is later.~~ Late applications will not be accepted. The application must comply with subrule (A).

(E) - (G) [Unchanged.]

Rule 7.316 Miscellaneous Relief Obtainable in Supreme Court

(A) [Unchanged.]

(B) **Allowing Act After Expiration of Time.** When, under the practice relating to appeals or stay of proceedings, a nonjurisdictional act is required to be done within a designated time, the Supreme Court may at any time, on motion and notice, permit it to be done after the expiration of the period on a showing made to the Court that there was good cause for the delay or that it was not due to the culpable negligence of the appellant. The Court will not entertain a motion to file a late application for leave to appeal under MCR 7.302(C)(3) or MCR 7.302(D)(2) or a late motion for reconsideration under MCR 7.313(E).

(C) - (D) [Unchanged.]

Staff Comment: The June 6, 2003, amendments of MCR 7.205, 7.210, 7.215, 7.302, and 7.316, which are effective September 1, 2003, deal with the time for filing applications for leave to appeal to the Supreme Court.

The amendments of MCR 7.302(C)(1), (2), and (4) set time limits of 56 days in criminal cases and 42 days in civil ones, but with a 28-day time limit for appeals from orders terminating parental rights, in recognition of the adverse consequences of delay on the children involved in such cases. Late applications will not be accepted. MCR 7.302(C)(3), 7.316(B).

The amendment of MCR 7.302(D)(2) provides a 28-day time limit for filing applications for leave to appeal as cross-appellant.

There are also nonsubstantive changes in several rules governing procedure in the Court of Appeals. In MCR 7.205(F)(5), a reference is added to MCR 3.993(C)(2) (formerly MCR 5.993[C][1]), which sets the time limit for late applications in parental-rights-termination cases. The language of MCR 7.210 and 7.215 is adjusted to conform to the changes in the Supreme Court rules.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 6, 2003

Corbin R. Davis

Clerk